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CERTIFICATION OF FACSIMILE TRANSMISSION CFR §1.8

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Jeffery M. Duncan

13 Mar. 2007 (Date) (Signature)

PATENT
Client No. 12730-231
(PA-5343-RFB)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David Ernest Hartley	Confirmation No. : 9896
Serial No.:	10/647,642	Group Art Unit: 3738
Filed:	August 25, 2003	Examiner: Prone, Christopher D.
For:	ASYMMETRIC STENT GRAFT ATTACHMENT	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellant requests review of the Final Rejection of September 13, 2006 and the Advisory Action mailed October 26, 2006. No amendments are being filed with this request. This request is being filed simultaneously with a Notice of Appeal.

ISSUE PRESENTED

Would the teachings of U.S. Patent No. 5,873,906 (Lau et al.), in view of U.S. Patent No. 5,562,726 (Chuter), as properly understood by those of ordinary skill in the art, have made Appellant's invention obvious.

ARGUMENT

The Examiner has rejected all of the pending claims (1, 3, 4, 7-9, 11, 12, 15-19 and 22) as obvious in view of Lau et al. and Chuter. In doing so, the Examiner has misconstrued the references and ignored important limitations found in Appellant's claims.

As defined in claim 1, Appellant's invention is a stent graft prosthesis mounted to a deployment device. The prosthesis is adapted to be deployed in a curved lumen, the curve having an inner side and an outer side.

The deployment device includes a guide wire catheter, to which the prosthesis is temporarily mounted for deployment by a retention arrangement. The retention arrangement provides retention of the prosthesis to the guide wire catheter at a plurality of retention points around the circumference of the proximal end of the stent graft prosthesis. The retention points are configured so as to have a greater circumferential distance between two adjacent retention points than other of the retention points. When deployed, the greater circumferential difference is on the inner side of the curve.

The guide wire catheter includes a trigger wire catheter coaxially around the guide wire catheter with trigger wires passing along an annular space between the guide wire catheter and the trigger wire catheter. The trigger wires exit through apertures in the trigger wire catheter at the retention points. The trigger wires are engaged with the graft material so that the retention points and the apertures are equally spaced around the trigger wire catheter.

As explained in the specification, particularly in connection with Figures 6-11 on pages 13-15, this arrangement is particularly advantageous for deployment within a curved lumen. Figures 3, 7 and 8 are copied below for ease of reference.

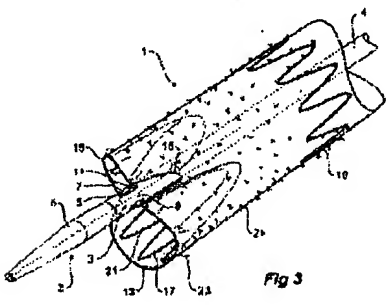


Fig 3

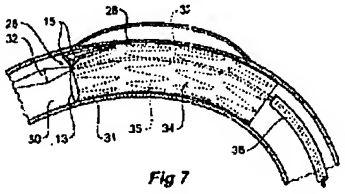


Fig 7

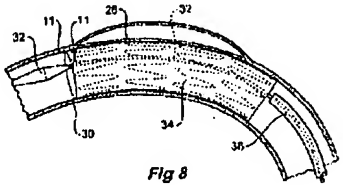
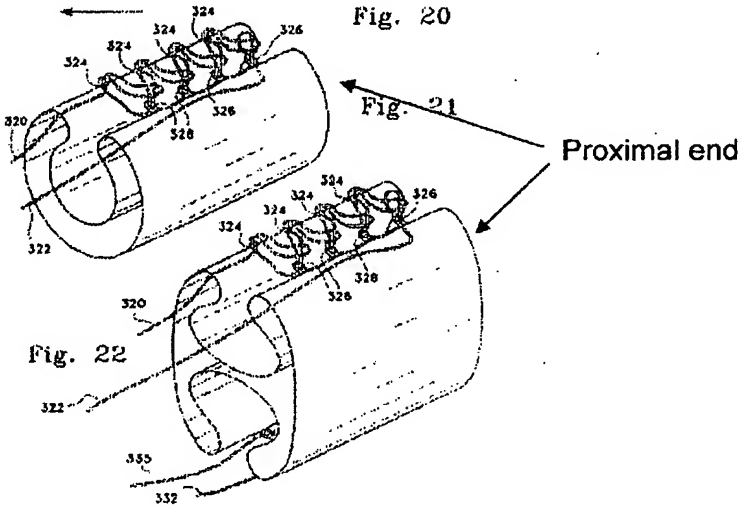


Fig 8

In particular, the retention of the **proximal end** of the prosthesis by this arrangement whereby a larger lobe is formed by the greater circumferential distance between the retention points on the inner side of the curve; helps to prevent an inward folding of the proximal end prosthesis under the influence of the pulsating blood flow. Naturally, such a folding could be catastrophic if it occluded the aorta. In addition, the fact that the trigger wires pass between the apertures and the retention points, i.e. inside the prosthesis and provide a direct attachment, is important in providing a secure opening of the proximal end of the prosthesis during deployment.

Contrary to the Examiner's position, the Lau et al. reference does not teach these claimed features. First, Lau et al. do not teach an attachment of a prosthesis by trigger wires from within the prosthesis. Instead, Lau et al. show a tether wire that laces around the outside of the prosthesis. See Figures 20 and 21.



Such a wire will not give the same benefit as the claimed trigger wires that pass from the trigger wire catheter to the retention points.

Second, Lau et al. do not show a retention **at the proximal end** of the prosthesis. As can be seen, the tether wire stops short of the end. Even a short section of prosthesis extending beyond the retention can allow for the inward folding the present invention seeks to prevent.

Third, the configuration of the wrap around tether wire of Lau et al. does not produce the uneven-sized lobes that are produced by the claimed differences in the circumferential distances, and that are attached to the trigger wire catheter. Instead, the tether wire of Lau et al. produces folds in the prosthesis that much more easily lead to the inward folding that the present invention seeks to prevent.

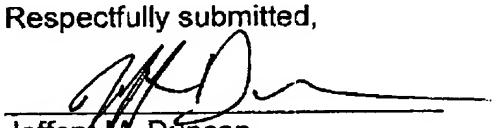
The Examiner has turned to the Chuter reference in an attempt to make up the deficiencies in Lau et al. However, Chuter does not do the job. Chuter does not teach the difference in the circumferential distances. Thus, there is nothing in Chuter that would have taught or suggested the benefit that having such differences would bring to a prosthesis and deployment system for a curved lumen, i.e. uneven-sized lobes retained at the proximal end of the prosthesis.

In view of these important distinctions, the combination of Lau et al. and Chuter would not have made Appellant's invention obvious.

CONCLUSION

For at least these reasons, the Examiner rejection of the pending claims under §103 is improper and should be withdrawn.

Respectfully submitted,



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